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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/847,323	05/03/2001	Trevor Cornwell	P 276830	5584
909	7590	02/01/2006	EXAMINER	
PILLSBURY WINTHROP SHAW PITTMAN, LLP			DIXON, THOMAS A	
P.O. BOX 10500			ART UNIT	
MCLEAN, VA 22102			PAPER NUMBER	
			3639	

DATE MAILED: 02/01/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/847,323

Applicant(s)

CORNWELL, TREVOR

Examiner

Thomas A. Dixon

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
 Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 November 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) See Continuation Sheet is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 56 is/are rejected.
- 7) ☒ Claim(s) 1,7,8,11,12,14,15,18,20-24,26-36,38-53,55,59,61,63,64 and 66-72 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Continuation of Disposition of Claims:

Claims pending in the application are:

1,7,8,11,12,14,15,18,20-24,26-36,38-53,55,56,59,61,63,64 and 66-72.

DETAILED ACTION

1. Applicant's amendments and arguments regarding claims 1 and 59 are convincing.
2. Applicant's arguments regarding claim 56 are not convincing.

Shemesh discloses auctioning items and the items include acceptable bid amounts based on a reserve which must be surpassed by a bidder in order for that bidder to be eligible to purchase the product auctioned, this is seen to be equivalent to the claimed "starting price" in column 5, lines 6-15 and further that the each bid must be higher than the last and that "it will be appreciated that initially, at the onset of auctioning, a first bid accepted must be equal to or higher than a minimum starting bid which is predetermined for each product auctioned" see column 5, lines 54-59.

Shemesh further discloses that auctioning airline seats is well known, see column 1, lines 35-41, but does not disclose the seats are charter aircraft seats.

BidJetcharter is introduced for the teaching that auctioning in the charter aircraft business is also old and well known.

3. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Claim Rejections - 35 USC § 112 1st Paragraph

4. The rejection of Claim 52 under 35 U.S.C. 112, first paragraph, is withdrawn, a further search of the specification found support on page 6.

Claim Rejections - 35 USC § 101

5. The rejections under 35 U.S.C. 101 are withdrawn in view of applicant's amendments and arguments.

Claim Objections

6. Claims 1 and 56 are objected to for minor informalities, in that the phrases "...by" should be followed by a colon.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claim 56 is rejected under 35 U.S.C. 103(a) as being unpatentable over Shemesh (6,847,939) in view of BidJetCharter.

As per Claim 56.

Shemesh ('939) discloses:

receiving a posting specifying pertaining products stored in the server, such as product description, quantity offered and a reserve price, see column 5, lines 4-67;

transmitting the posting, see column 5, lines 4-10;

receiving, before the auction end time, an initial price bid, that is equal to or greater than the starting price, see column 5, lines 56-58;

enabling users to specify at least one higher bid before the auction end time, see column 5, lines 58-59;

determining the greatest bid at the auction end time, see column 5, lines 64-67.

Shemesh further discloses the auctioning of airline tickets and instructions for the winning bidders to purchase tickets, see column 1, lines 33-43, but does not disclose the airlines are charter airlines.

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BidJetCharter discloses a charter auction for the benefit of making charter planes more accessible and minimize empty legs to increase the earnings of charter airplane companies.

Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made to auction Charter aircraft seats as taught by BidJetCharter in the invention of Shemesh ('939) for the benefit of making charter planes more accessible and minimize empty legs to increase the earnings of charter airplane companies.

Allowable Subject Matter

8. Claims 1 and 59 are allowable.

9. The following is a statement of reasons for the indication of allowable subject matter:

As per Claims 1 and 59

The prior art of record, specifically Rosenblat ('548) in view of Daughtrey ('226), Ahlstrom ('357), McCowan ('200), Shemesh ('939) and AirCharter do not disclose or fairly teach:

identifying a suitable aircraft by:

- 1) comparing the itinerary information with the charter aircraft information,
- 2) determining which of the charter aircraft are compatible with airports within a prescribed radius of the user's at least one departure location,
- 3) determining which of the charter aircraft are compatible with airports within a prescribed radius of the user's at least one destination location,
- 4) comparing the itinerary information with the charter aircraft information by
 - a) determining the status of each charter aircraft, wherein the status of each charter aircraft is either a positive or a negative status,
 - b) determining whether each charter aircraft has appropriate flight characteristics, and
 - c) determining whether each charter aircraft has a present location within the prescribed radius of the user's designated at least one departure location, and
- 5) eliminating charter aircraft with insufficient seating capacity; determining a charter price for at least one of the identified suitable charter aircraft by:
 - 1) obtaining a cost of operating each of the suitable charter aircraft from the charter aircraft information database,
 - 2) calculating a flight factor for flying each of the suitable charter aircraft from the user's at least one departure location to the user's at least one destination location, wherein the flight factor is at least on of an approximate flight time between the user's at least one departure location and the user's at least one

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destination location and an approximate flight distance between the user's at least one departure location and the user's at least one destination location,
3) calculating a total charter price based on the operating cost and the calculated flight factor for each of the suitable charter aircraft.

The claims that depend from the above allowable claims are allowable for the same reasons.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thomas A. Dixon whose telephone number is (571) 272-6803. The examiner can normally be reached on Monday - Thursday 6:30 - 4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Weiss can be reached on (571) 272-6812. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Thomas A. Dixon
Primary Examiner
Art Unit 3639

January 06